

From: Nick Calton
To: Microsoft ATR
Date: 1/23/02 3:00pm
Subject: Microsoft Settlement

To: Renata B. Hesse
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I would like to take this opportunity to comment on the proposed final settlement as allowed by the Tunney Act. I have been a programmer, mostly for Windows and Unix, for these past five years. Of late I have primarily adopted the Java programming language. I am strongly against the Proposed Final Judgement, on several grounds. I feel that while it may be corrective, it is no way punitive, and Microsoft has made its empire with criminal behavior. Even if the proposed remedy halts future transgressions, it does nothing to punish Microsoft for the means of acquiring its wealth. I would like to see monumentally large fines levied against it, the government should do what they think best with the money.

I think the PFJ falls down though even with regard to reining in future bad behavior in several places, please allow me to mention a few specifically. First, in not requiring Microsoft to fully document all of its file formats, so that binary compatibility could be made much easier by competitors.

Second, in not requiring that MS disclose its software patents regarding the Windows API, this could allow them to pretend to offer a level playing field, but later they could sandbag the competition who may have sank resources into attempting to compete in a software field owned by Microsoft patents. I'm specifically thinking of Mono and .NET here. Quite frankly if it were up to me I would require Microsoft to release all of its software patents in the most contested fields into the public domain. If it were up to me there would be no software patents at all. All of the ones I have seen, except the patent for the RSA encryption technology, now expired, have seemed obvious. At the least, it can be seen that they are inherently anti-competitive.

Third, and I'll stop here and thank you for reading this far, as mentioned by Dan Kegel whose excellent critique of the PFJ can be found at <http://www.kegel.com/remedy/remedy2.html> , the PFJ allows Microsoft to retaliate against OEMs that ship PCs with competing operating systems, such as Linux, but without a Microsoft operating system. As I understand it, this would hurt OEMs ability to provide the public with a PC of their choice and the operating system of their choice. This is the very definition of anti competitive behavior, and I feel that a future draft should most certainly anticipate and prevent this, and that this current version of the PFJ must not be allowed to stand.

Thank you,
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